



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TAL  
Docket No: 641-11  
26 October 2011

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10, United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 October 2011. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

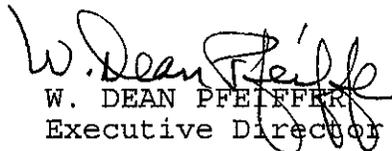
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy and began a period of active duty on 12 June 1968 at age 19. On 18 October 1968, you received nonjudicial punishment for failure to obey a lawful order (gambling). On 22 November 1971, you made a statement to the Navy Investigative Service (NIS) that you unlawfully possessed and used marijuana, lysergic acid diethylamide (LSD) and cocaine. You also stated in part, that you unlawfully sold and transferred cocaine. You were notified of pending administrative discharge processing under other than honorable (OTH) conditions due to misconduct (drug abuse). You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). On 2 May 1972, an ADB recommended that you be separated with an OTH discharge for misconduct due to drug abuse. Subsequently, your commanding officer concurred with the ADB and forwarded your case to the discharge authority for review. On 25 May 1972, you received NJP for failure to obey a lawful order. On 31 May 1972, the separation authority approved and directed that you receive a general discharge for misconduct (drug abuse).

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and Vietnam service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in two NJPs and the wrongful use, possession and sale of drugs. The Board also believed that you were fortunate to receive a general discharge since a separation under other than honorable conditions is often directed when a Sailor is separated for misconduct. Finally, there is no provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

  
W. DEAN PFEIFFER  
Executive Director